HON'BLE SHRI G.S. SINGHVI, THE CHIEF JUSTICE

WRIT PETITION No. 13834 OF 1996

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Between:

K.S. Basheeruddin

……Petitioner

And

The Collector, Anantapur and two others

……Respondents

:: ORDER ::

Counsel for the petitioner : Sri Syed Shareef Amed representing Sri M. Subbareddy

Counsel for the Respondents : Government Pleader for Land Acquisition

Dated: 07-06-2006

The petitioner who claims to have some interest in Dargah Akram Shavali Dargah, Darga Hazrath Khaja Syed Shah

Zaheeruddin Hussaini has filed this petition under Article 226 of the Constitution of India for quashing award proceedings No.Rc.534/94-C, dated 09-01-1996 issued by the Land Acquisition Officer-cum-Revenue Divisional Officer, Penukonda for determination of compensation payable in furtherance of acquisition of land vide notification issued under Section 4(1) of the Land Acquisition Act, 1894 (for short 'the 1894 Act') which was published in Anantapur District Gazette bearing No.18/94 dated 23-02-1994 and was followed by declaration under Section 6, which was published in Anantapur District Gazette bearing No. 87/94 dated 12-06-1994.

The principal ground on which the petitioner has challenged the impugned award is that notice of the acquisition proceedings initiated under the 1894 Act was not given to the Wakf Board which is the owner of the property comprised in Survey No. 400/A situated in Village Kutagulla, Mandal Kadiri, District Anantapur. According to the petitioner, failure of the respondents to issue notice to the owner of the property has the effect of rendering the acquisition proceedings nullity.

In the counter filed on behalf of the respondents by Smt. Y.V. Anuradha, the then Collector and District Magistrate, Anantapur, it has been averred that the acquisition has been made in accordance with law after giving opportunity of hearing to all the affected persons. She has further averred that reference made at the instance of the interested parties is pending in the Court of Senior Civil Judge, Kadiri.

I have heard Sri Syed Shareef Ahmed, Advocate for the petitioner and learned Government Pleader for Land Acquisition. In my opinion, the writ petition is liable to be dismissed because:

(1) the petitioner is not owner of the property acquired by the respondents by invoking the

provisions of 1894 Act and, as such, he does not have the locus to question the acquisition proceedings;

(2) Wakf Board, which is said to be the owner of the property has not come forward to challenge the acquisition proceedings, and

(3) the petitioner has neither placed on record copies of the notifications issued under Sections 4(1) and 6 of the Act nor challenged the legality thereof.

For the reasons stated above, the writ petition is dismissed. However, it is made clear that the Wakf Board shall be free to challenge the acquisition proceedings as and when possession of the property belonging to it is taken by the concerned authorities.

As a sequel to the dismissal of the writ petition, ad interim order passed by this Court shall stand automatically vacated.

G.S. SINGHVI, CJ

07-06-2006
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